THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.No. 19906 OF 1996

Date: 22.01.2006

Between: T. Appanna.

... Petitioner

and

Chairman/Presiding Officer, Industrial Tribunal-cum-Labour Court, Anantapur and another.

... Respondents.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.No. 19906 OF 1996

O R D E R:

Aggrieved by the award of the Industrial Tribunal-cum-labour Court in I.D. No. 96 of 1993 dated 30.03.1996, the present writ petition is filed.

The petitioner joined in the service of the second respondent organization in 1974 as a reeling clerk. He was working as reliever to time keepers and reeling clerks from 1988. On verification of the records with regards to Badli workers, the Superintendent (Personnel) found the muster rolls to have been tampered with respect to a Badli worker by name Ramudu. A regular departmental enquiry was held. The enquiry officer held the petitioner guilty of the charges. The petitioner was dismissed from service vide proceedings dated 15.03.1994. Aggrieved thereby the petitioner approached the Industrial Tribunal. The Tribunal noted that an enquiry was held against the petitioner and A.K. Ramaiah, time keeper and the Badli worker Sri Ramudu, that the petitioner had admitted that during the process of wage bill preparation he had not looked into the attendance register and if he had done so he would not have committed the misconduct, but in a hurry, during wage bill preparation he had taken help of his co-clerks for informing him of the number of working days in the attendance register and as they had misguided him, he had committed these mistakes. The petitioner sought to be exonerated. The Tribunal held that at the earliest stage the petitioner had admitted that there remained variance in the

attendance register, the strength register and that there were erasures in the attendance register, that during the period June 1992 to November, 1992 the petitioner was on duty for 47 days and had claimed ten days wages in respect of Sri Ramudu, the Badli worker though he had remained absent. The Tribunal disbelieved the petitioner's claim that he was not aware of the variance in the registers while preparing the wage bills. The Tribunal noted that there was nothing on record to show that the explanation submitted by the petitioner on 09.12.1992 was tainted with coercion, fraud, promise etc., and that being so the material collected by the management would establish the charges levelled against the petitioner with regards discrimination. On the question of the punishment to be imposed and the proportionality thereof, the Tribunal noted that the petitioner had not only recorded the presence of the Badli worker Ramudu who was absent, but had also prepared wage bills for him for the period of his absence. The Tribunal held that the petitioner's misconduct was more grave and serious than that of A.K. Ramaih and as such the respondents were justified in awarding him the punishment. While confirming the order of punishment awarded by the management, the Tribunal held that there was no justification in interfering with the punishment imposed on the petitioner.

Before this Court Smt. S. Lakshmi Prameela, learned Counsel for the petitioner, would submit that the award of the lower Court is based on surmises and conjectures and that the findings of the labour Court are based on no evidence. Learned Counsel would submit that the punishment is grossly disproportionate to

the charges had established and are discriminatory in nature. As noted above, the labour Court came to the conclusion that the petitioner was guilty of the charges levelled against him on the basis of the petitioner's admission in his explanation dated 09.12.1992. On the question of discrimination of punishment and its proportionality, the labour Court held that the charges held established against the petitioner was more grave and serious than that held established against Sri A.K. Ramaiah. The award of the labour Court is well considered and its refusal to interfere with the punishment imposed, in exercise of its discretionary jurisdiction under Section 11-A of the Industrial Disputes Act, does not necessitate interference under Article 226 of the Constitution of India. As the jurisdiction exercised by this Court under Article 226 of the Constitution of India is not akin to an appeal and this Court would not substitute its views for that of the labour Court, the award of the labour Court does not necessitate interference in this writ petition. The writ petition fails and is accordingly dismissed.

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Date: 22.01.2007 RAMESH RANGANATHAN, J

MRKR